

10/15/2012 11:14 am

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

-----X
DANIEL MILLER, and all others
similarly situated,

Plaintiffs,

-against-

ORDER
12-CV-4378(JS)(WDW)

ALFRED E. SMITH, New York State
Commissioner of Corrections,

Defendant.

-----X
APPEARANCES:

For Plaintiff: Daniel Miller, Pro Se
12003565
Nassau County Correctional Center
100 Carman Ave.
East Meadow, NY 11554

For Defendant: No appearance

SEYBERT, District Judge:

By Order dated September 21, 2012, the undersigned denied the application of incarcerated pro se plaintiff Daniel Miller ("Plaintiff") to proceed in forma pauperis pursuant to the "three strikes" provision of 28 U.S.C. § 1915(g). Plaintiff was directed to pay the \$350.00 filing fee within fourteen (14) days of the date of the September 21, 2012 Order, and was warned that failure to do so would lead to the dismissal of the Complaint. See Order, dated September 21, 2012, Seybert, D.J. To date, the Plaintiff has not paid the fee nor has he otherwise communicated with the Court with regard to this case. Accordingly, the Complaint is now dismissed without prejudice and the Clerk of the Court is directed to close this case.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

SO ORDERED.

/s/ JOANNA SEYBERT
JOANNA SEYBERT, U.S.D.J.

Dated: October 15, 2012
 Central Islip New York